

Senate File 432 - Introduced

SENATE FILE _____
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 308)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act regulating animal feeding operations, making penalties
2 applicable, and providing for penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2337SV 83
5 da/rj/8

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1 1 DIVISION I
1 2 APPLICATION OF MANURE ON FROZEN
1 3 GROUND AND SNOW COVERED GROUND
1 4 Section 1. Section 459.102, Code 2009, is amended by
1 5 adding the following new subsections:
1 6 NEW SUBSECTION. 28A. "Frozen ground" means soil that is
1 7 impenetrable due to frozen soil moisture but does not include
1 8 soil that is only frozen to a depth of two inches or less.
1 9 NEW SUBSECTION. 31A. "Liquid manure" means manure that
1 10 meets all of the following requirements:
1 11 a. It flows perceptibly under pressure.
1 12 b. It is capable of being transported through a mechanical
1 13 pumping device designated to move a liquid.
1 14 c. Its constituent molecules flow freely among themselves
1 15 and show the tendency to separate under stress.
1 16 NEW SUBSECTION. 44A. "Snow covered ground" means soil
1 17 covered by one inch or more of snow or soil covered by
1 18 one-half inch or more of ice.
1 19 NEW SUBSECTION. 45A. "Surface water drain tile intake"
1 20 means an opening to a drain tile which allows surface water to
1 21 enter the drain tile without filtration through the soil
1 22 profile.
1 23 Sec. 2. Section 459.312, subsection 10, Code 2009, is
1 24 amended by adding the following new paragraph:
1 25 NEW PARAGRAPH. h. A description of land identified for
1 26 the application of liquid manure due to an emergency if
1 27 allowed pursuant to section 459.313A. The owner must identify
1 28 the land in the original manure management plan or in the next
1 29 updated manure management plan required to be submitted to the
1 30 department following the application.
1 31 Sec. 3. NEW SECTION. 459.313A APPLICATION OF MANURE ON
1 32 LAND == FROZEN GROUND AND SNOW COVERED GROUND.
1 33 A person may apply manure originating from an animal
1 34 feeding operation on frozen ground or snow covered ground
1 35 except as provided in this section or except as otherwise
2 1 provided in this chapter.
2 2 1. During the period beginning February 1 and ending April
2 3 1, the person may apply liquid manure originating from a
2 4 manure storage structure, that is part of a confinement
2 5 feeding operation, on frozen ground or snow covered ground
2 6 only when there is an emergency. An emergency occurs only
2 7 when there is an immediate need to comply with section
2 8 459.311, subsection 1, due to unforeseen circumstances
2 9 affecting the storage of the liquid manure. The unforeseen
2 10 circumstances must be beyond the control of the owner of the
2 11 confinement feeding operation, including but not limited to
2 12 natural disaster, unusual weather conditions, or equipment or
2 13 structural failure. A person who is authorized to apply
2 14 liquid manure on frozen ground or snow covered ground when
2 15 there is an emergency shall comply with all of the following:
2 16 a. The person must contact the department by telephone

2 17 prior to the application.
2 18 b. The person must apply the liquid manure on land
2 19 identified for such application in a manure management plan
2 20 submitted by the owner of the confinement feeding operation to
2 21 the department as provided in section 459.312. The person
2 22 must identify the land in the manure management plan prior to
2 23 the application. The owner must identify the land in the
2 24 original manure management plan or in the next updated manure
2 25 management plan required to be submitted to the department
2 26 following the application.

2 27 c. The liquid manure shall only be applied on land having
2 28 a slope of five percent or less.

2 29 d. Any surface water drain tile intake that is on land in
2 30 the owner's manure management plan and located down gradient
2 31 of the application must be temporarily blocked beginning not
2 32 later than the time that the liquid manure is first applied
2 33 and ending not earlier than one week after the completion of
2 34 the application.

2 35 2. The authorization to apply liquid manure in subsection
3 1 does not apply to any of the following:

3 2 a. An immediate need to comply with section 459.311,
3 3 subsection 1, caused by the improper design or management of
3 4 the manure storage structure, including but not limited to a
3 5 failure to properly account for the volume of the manure to be
3 6 stored.

3 7 b. Liquid manure originating from a manure storage
3 8 structure constructed or expanded on or after the effective
3 9 date of this Act, if the manure storage structure has a
3 10 capacity to store manure for less than one hundred eighty
3 11 days.

3 12 3. Subsections 1 and 2 do not apply to any of the
3 13 following:

3 14 a. The application of liquid manure originating from a
3 15 small animal feeding operation.

3 16 b. The application of liquid manure and injection into the
3 17 soil or incorporation within the soil on the same date.

3 18 DIVISION II

3 19 DRY BEDDED CONFINEMENT FEEDING OPERATIONS

3 20 SUBCHAPTER I

3 21 GENERAL PROVISIONS

3 22 Sec. 4. NEW SECTION. 459B.101 TITLE.

3 23 This chapter shall be known and may be cited as the "Animal
3 24 Agriculture Compliance Act for Dry Bedded Confinement Feeding
3 25 Operations".

3 26 Sec. 5. NEW SECTION. 459B.102 DEFINITIONS.

3 27 As used in this chapter, unless the context otherwise
3 28 requires:

3 29 1. "Alluvial aquifer area" means an area underlaid by sand
3 30 or gravel aquifers situated beneath floodplains along stream
3 31 valleys and includes alluvial deposits associated with stream
3 32 terraces and benches, contiguous wind-blown sand deposits, and
3 33 glacial outwash deposits.

3 34 2. "Animal" means cattle or swine.

3 35 3. "Animal unit" means the same as defined in section
4 1 459.102.

4 2 4. "Animal unit capacity" means the maximum number of
4 3 animal units which the owner or operator confines in a dry
4 4 bedded confinement feeding operation at any one time.

4 5 5. "Bedding" means crop, vegetation, or forage residue or
4 6 similar materials placed in a dry bedded confinement building
4 7 for the care of animals.

4 8 6. "Commercial enterprise" means the same as defined in
4 9 section 459.102.

4 10 7. "Confinement feeding operation" means the same as
4 11 defined in section 459.102.

4 12 8. "Department" means the department of natural resources.

4 13 9. "Designated area" means the same as defined in section
4 14 459A.102.

4 15 10. "Designated wetland" means the same as defined in
4 16 section 459.102.

4 17 11. "Dry bedded confinement feeding operation" means a
4 18 confinement feeding operation in which animals are confined to
4 19 areas which are totally roofed and in which all manure is
4 20 stored as dry bedded manure.

4 21 12. "Dry bedded confinement feeding operation structure"
4 22 means a dry bedded confinement feeding operation building or a
4 23 dry bedded manure storage structure.

4 24 13. "Dry bedded manure" means manure from animals that
4 25 meets all of the following requirements:

4 26 a. The manure does not flow perceptibly under pressure.

4 27 b. The manure is not capable of being transported through

4 28 a mechanical pumping device designed to move a liquid.
4 29 c. The manure contains bedding.
4 30 14. "Dry bedded manure confinement feeding operation
4 31 building" or "building" means a building used in conjunction
4 32 with a confinement feeding operation to house animals and in
4 33 which any manure from the animals is stored as dry bedded
4 34 manure.
4 35 15. "Dry bedded manure storage structure" means a covered
5 1 or uncovered structure, other than a building used to store
5 2 dry bedded manure originating from a confinement feeding
5 3 operation.
5 4 16. "Educational institution" means the same as defined in
5 5 section 459.102.
5 6 17. "Grassed waterway" means the same as defined in
5 7 section 459A.102.
5 8 18. "High-quality water resource" means the same as
5 9 defined in section 459.102.
5 10 19. "Karst terrain" means the same as defined in section
5 11 459.102.
5 12 20. "Major water source" means the same as defined in
5 13 section 459.102.
5 14 21. "Manure" means the same as defined in section 459.102.
5 15 22. "One hundred year floodplain" means the same as
5 16 defined in section 459.102.
5 17 23. "Public use area" means the same as defined in section
5 18 459.102.
5 19 24. "Stockpile" means to store dry bedded manure outside
5 20 of a dry bedded manure confinement feeding operation building
5 21 or a dry bedded manure storage structure.
5 22 25. "Water source" means the same as defined in section
5 23 459.102.
5 24 Sec. 6. NEW SECTION. 459B.103 SPECIAL TERMS.
5 25 For purposes of this chapter, all of the following shall
5 26 apply:
5 27 1. Two or more dry bedded confinement feeding operations
5 28 under common ownership or common management are deemed to be a
5 29 single dry bedded confinement feeding operation if they are
5 30 adjacent or utilize a common area or system for dry bedded
5 31 manure disposal.
5 32 2. For purposes of determining whether two or more dry
5 33 bedded confinement feeding operations are adjacent, all of the
5 34 following shall apply:
5 35 a. At least one dry bedded confinement feeding operation
6 1 structure must be constructed on or after March 21, 1996.
6 2 b. A dry bedded confinement feeding operation structure
6 3 which is part of one dry bedded confinement feeding operation
6 4 is separated by less than one thousand two hundred fifty feet
6 5 from a dry bedded confinement feeding operation structure
6 6 which is part of the other dry bedded confinement feeding
6 7 operation.
6 8 3. a. For purposes of determining whether two or more dry
6 9 bedded confinement feeding operations are under common
6 10 ownership, a person must hold an interest in each of the dry
6 11 bedded confinement feeding operations as any of the following:
6 12 (1) A sole proprietor.
6 13 (2) A joint tenant or tenant in common.
6 14 (3) A holder of a majority equity interest in a business
6 15 association as defined in section 202B.102, including but not
6 16 limited to as a shareholder, partner, member, or beneficiary.
6 17 b. An interest in the dry bedded confinement feeding
6 18 operation under paragraph "a", subparagraph (1) or (2) which
6 19 is held directly or indirectly by the person's spouse or
6 20 dependent child shall be attributed to the person.
6 21 4. For purposes of determining whether two or more dry
6 22 bedded confinement feeding operations are under common
6 23 management, a person must have significant control of the
6 24 management of the day-to-day operations of each of the dry
6 25 bedded confinement feeding operations. Common management does
6 26 not include control over a contract livestock facility by a
6 27 contractor, as defined in section 202.1.
6 28 5. In calculating the animal unit capacity of a dry bedded
6 29 confinement feeding operation, the animal unit capacity shall
6 30 include the animal unit capacity of all dry bedded confinement
6 31 feeding operation buildings that are used to house animals in
6 32 the dry bedded confinement feeding operation.
6 33 Sec. 7. NEW SECTION. 459B.104 GENERAL AUTHORITY ==
6 34 COMMISSION AND DEPARTMENT == PURPOSE == COMPLIANCE.
6 35 1. The environmental protection commission shall establish
7 1 by rule adopted pursuant to chapter 17A, requirements relating
7 2 to the construction, including expansion, or operation of dry
7 3 bedded confinement feeding operations, including related dry

7 4 bedded manure confinement feeding operation buildings and
7 5 stockpiles.

7 6 2. Any provision referring generally to compliance with
7 7 the requirements of this chapter as applied to dry bedded
7 8 confinement feeding operations also includes compliance with
7 9 requirements in rules adopted by the environmental protection
7 10 commission pursuant to this section, orders issued by the
7 11 department as authorized under this chapter, and the terms and
7 12 conditions applicable to manure management plans required
7 13 under this chapter.

7 14 3. The purpose of this chapter is to provide requirements
7 15 relating to the construction, including the expansion, and
7 16 operation of dry bedded confinement feeding operations, and
7 17 the control of dry bedded manure which shall be construed to
7 18 supplement applicable provisions of chapter 459. If there is
7 19 a conflict between the provisions of this chapter and chapter
7 20 459, the provisions of this chapter shall prevail.

7 21 SUBCHAPTER II

7 22 DRY BEDDED MANURE STRUCTURES ==

7 23 CONSTRUCTION REQUIREMENTS

7 24 Sec. 8. NEW SECTION. 459B.201 CONSTRUCTION DESIGN
7 25 STANDARDS.

7 26 A person constructing a dry bedded confinement feeding
7 27 operation structure on karst terrain or in an alluvial aquifer
7 28 area shall comply with all of the following:

7 29 1. The person must construct the dry bedded confinement
7 30 feeding operation structure at a location where there is a
7 31 vertical separation distance of at least five feet between the
7 32 bottom of the floor of the dry bedded confinement feeding
7 33 operation structure and the underlying limestone, dolomite, or
7 34 other soluble rock in karst terrain or the underlying sand and
7 35 gravel aquifer in an alluvial aquifer area.

8 1 2. The dry bedded confinement feeding operation structure
8 2 must have a floor consisting of reinforced concrete at least
8 3 five inches thick.

8 4 Sec. 9. NEW SECTION. 459B.202 DISTANCE REQUIREMENTS.

8 5 1. Except as provided in subsection 3, the following shall
8 6 apply:

8 7 a. A dry bedded confinement feeding operation structure
8 8 shall not be constructed closer than five hundred feet away
8 9 from the surface intake of an agricultural drainage well. A
8 10 dry bedded confinement feeding operation structure shall not
8 11 be constructed closer than one thousand feet from a wellhead,
8 12 cistern of an agricultural drainage well, or known sinkhole.

8 13 b. A dry bedded confinement feeding operation structure
8 14 shall not be constructed if the dry bedded confinement feeding
8 15 operation structure as constructed is closer than any of the
8 16 following:

8 17 (1) Two hundred feet away from a water source other than a
8 18 major water source.

8 19 (2) One thousand feet away from a major water source.

8 20 (3) Two thousand five hundred feet away from a designated
8 21 wetland.

8 22 c. (1) A water source, other than a major water source,
8 23 shall not be constructed, expanded, or diverted, if the water
8 24 source as constructed, expanded, or diverted is closer than
8 25 two hundred feet away from a dry bedded confinement feeding
8 26 operation structure.

8 27 (2) A major water source shall not be constructed,
8 28 expanded, or diverted, if the major water source as
8 29 constructed, expanded, or diverted is closer than one thousand
8 30 feet from a dry bedded confinement feeding operation
8 31 structure.

8 32 (3) A designated wetland shall not be established, if the
8 33 designated wetland is closer than two thousand five hundred
8 34 feet away from a dry bedded confinement feeding operation
8 35 structure.

9 1 2. A dry bedded confinement feeding operation structure
9 2 shall not be constructed on land that is part of a one hundred
9 3 year floodplain.

9 4 3. A separation distance required in subsection 1 shall
9 5 not apply to any of the following:

9 6 a. A location or object and a farm pond or privately owned
9 7 lake, as defined in section 462A.2.

9 8 b. A dry bedded confinement feeding operation structure
9 9 constructed with a secondary containment barrier. The
9 10 department shall adopt rules providing for the construction
9 11 and use of a secondary containment barrier.

9 12 SUBCHAPTER III

9 13 DRY BEDDED MANURE CONTROL

9 14 Sec. 10. NEW SECTION. 459B.301 STOCKPILING == AIR

9 15 QUALITY.
9 16 A person may stockpile dry bedded manure, subject to this
9 17 section.
9 18 1. Except as provided in subsection 2, a person shall not
9 19 stockpile dry bedded manure within one thousand two hundred
9 20 fifty feet from a residence not owned by the titleholder of
9 21 the land, a commercial enterprise, a bona fide religious
9 22 institution, an educational institution, or a public use area.
9 23 2. A person may stockpile dry bedded manure within a
9 24 separation distance required between the stockpiled dry bedded
9 25 manure and an object or location for which separation is
9 26 required under subsection 1, if any of the following apply:
9 27 a. The titleholder of the land benefiting from the
9 28 separation distance requirement executes a written waiver with
9 29 the titleholder of the land where the dry bedded manure is
9 30 stockpiled.
9 31 b. The stockpiled dry bedded manure originates from a
9 32 small animal feeding operation.
9 33 Sec. 11. NEW SECTION. 459B.302 STOCKPILING == WATER
9 34 QUALITY.

9 35 A person may stockpile dry bedded manure, subject to all of
10 1 the following:

10 2 1. a. The person shall not stockpile the dry bedded
10 3 manure within the following distances to a designated area
10 4 unless the dry manure is maintained in a manner that will not
10 5 allow precipitation-induced runoff to drain from the dry
10 6 bedded manure to the designated area:

10 7 (1) Four hundred feet from a designated area other than a
10 8 high-quality water resource.

10 9 (2) Eight hundred feet from a high-quality water resource.

10 10 b. The person shall not stockpile dry bedded manure within
10 11 two hundred feet from a terrace tile inlet or surface tile
10 12 inlet unless the dry bedded manure is maintained in a manner
10 13 that will not allow precipitation-induced runoff to drain from
10 14 the dry bedded manure to the terrace tile inlet or surface
10 15 tile inlet.

10 16 c. The person shall not stockpile dry bedded manure in a
10 17 grassed waterway, where water pools on the soil surface, or in
10 18 any location where surface water will enter the stockpiled dry
10 19 bedded manure.

10 20 d. The person shall not stockpile dry bedded manure on
10 21 land having a slope of more than three percent unless methods,
10 22 structures, or practices are implemented to contain the
10 23 stockpiled dry bedded manure, including but not limited to
10 24 using hay bales, silt fences, temporary earthen berms, or
10 25 other effective measures, and to prevent or diminish
10 26 precipitation-induced runoff from the stockpiled dry bedded
10 27 manure.

10 28 e. The person shall not stockpile dry bedded manure on
10 29 karst terrain or in an alluvial aquifer area unless the person
10 30 complies with all of the following:

10 31 (1) The person must stockpile the dry bedded manure at a
10 32 location where there is a vertical separation distance of at
10 33 least five feet between the bottom of the stockpiled dry
10 34 manure and the underlying limestone, dolomite, or other
10 35 soluble rock in karst terrain or the underlying sand and
11 1 gravel aquifer in an alluvial aquifer area.

11 2 (2) The dry bedded manure must be stockpiled on reinforced
11 3 concrete at least five inches thick.

11 4 2. The person shall remove the stockpiled dry bedded
11 5 manure and apply it in accordance with the provisions of
11 6 chapter 459, including but not limited to section 459.311,
11 7 within six months after the dry bedded manure is stockpiled.

11 8 Sec. 12. NEW SECTION. 459B.303 MANURE MANAGEMENT PLAN
11 9 FOR A DRY BEDDED CONFINEMENT OPERATION.

11 10 For purposes of a manure management plan for a dry bedded
11 11 confinement operation, if the application of dry bedded manure
11 12 is on land other than land owned or rented for crop production
11 13 by the owner of the dry bedded confinement feeding operation,
11 14 the plan shall include a copy of each written agreement
11 15 executed by the owner of the dry bedded confinement feeding
11 16 operation and the landowner or the person renting the land for
11 17 crop production where the dry bedded manure may be applied.

11 18 SUBCHAPTER IV
11 19 ENFORCEMENT

11 20 Sec. 13. NEW SECTION. 459B.401 GENERAL.
11 21 The department and the attorney general shall enforce the
11 22 provisions of this chapter in the same manner as provided in
11 23 chapter 459, subchapter VI.

11 24 Sec. 14. NEW SECTION. 459B.402 VIOLATIONS == CIVIL
11 25 PENALTY.

11 26 A person who violates section 459B.301, shall be subject to
11 27 the same penalty as provided in section 459.602 and a person
11 28 who violates any other provision of this chapter shall be
11 29 subject to the same penalty as provided in section 459.603.
11 30 Any civil penalty collected shall be deposited in the animal
11 31 agriculture compliance fund created in section 459.401.

11 32 DIVISION III
11 33 CONFORMING CHANGES

11 34 Sec. 15. Section 455A.4, subsection 1, paragraph b, Code
11 35 2009, is amended to read as follows:

12 1 b. Provide overall supervision, direction, and
12 2 coordination of functions to be administered by the
12 3 administrators under chapters 321G, 321I, 455B, 455C, 456,
12 4 456A, 456B, 457A, 458A, 459, 459A, 459B, 461A, 462A, 462B,
12 5 464A, 465C, 473, 481A, 481B, 483A, 484A, and 484B.

12 6 Sec. 16. Section 455B.103, subsection 4, unnumbered
12 7 paragraph 1, Code 2009, is amended to read as follows:

12 8 Conduct investigations of complaints received directly or
12 9 referred by the commission created in section 455A.6 or other
12 10 investigations deemed necessary. While conducting an
12 11 investigation, the director may enter at any reasonable time
12 12 in and upon any private or public property to investigate any
12 13 actual or possible violation of this chapter, chapter 459,
12 14 chapter 459A, or the rules or standards adopted under this
12 15 chapter, chapter 459, ~~or chapter 459A, or chapter 459B~~.

12 16 However, the owner or person in charge shall be notified.

12 17 Sec. 17. Section 455B.103A, subsection 1, unnumbered
12 18 paragraph 1, Code 2009, is amended to read as follows:

12 19 If a permit is required pursuant to this chapter, ~~or~~
12 20 chapter 459, ~~or chapter 459A, or 459B~~ for storm water
12 21 discharge or an air contaminant source and a facility to be
12 22 permitted is representative of a class of facilities which
12 23 could be described and conditioned by a single permit, the
12 24 director may issue, modify, deny, or revoke a general permit
12 25 for all of the following conditions:

12 26 Sec. 18. Section 455B.105, subsections 3, 6, and 8, Code
12 27 2009, are amended to read as follows:

12 28 3. Adopt, modify, or repeal rules necessary to implement
12 29 this chapter, chapter 459, ~~and~~ chapter 459A, ~~and~~ chapter 459B,
12 30 and the rules deemed necessary for the effective

12 31 administration of the department. When the commission
12 32 proposes or adopts rules to implement a specific federal
12 33 environmental program and the rules impose requirements more
12 34 restrictive than the federal program being implemented
12 35 requires, the commission shall identify in its notice of
13 1 intended action or adopted rule preamble each rule that is
13 2 more restrictive than the federal program requires and shall
13 3 state the reasons for proposing or adopting the more
13 4 restrictive requirement. In addition, the commission shall
13 5 include with its reasoning a financial impact statement
13 6 detailing the general impact upon the affected parties. It is
13 7 the intent of the general assembly that the commission
13 8 exercise strict oversight of the operations of the department.
13 9 The rules shall include departmental policy relating to the
13 10 disclosure of information on a violation or alleged violation
13 11 of the rules, standards, permits or orders issued by the
13 12 department and keeping of confidential information obtained by
13 13 the department in the administration and enforcement of this
13 14 chapter, chapter 459, ~~and~~ chapter 459A, ~~and~~ chapter 459B.
13 15 Rules adopted by the executive committee before January 1,
13 16 1981, shall remain effective until modified or rescinded by
13 17 action of the commission.

13 18 6. Approve all contracts and agreements under this
13 19 chapter, chapter 459, ~~and~~ chapter 459A, ~~and~~ chapter 459B
13 20 between the department and other public or private persons or
13 21 agencies.

13 22 8. Hold public hearings, except when the evidence to be
13 23 received is confidential pursuant to this chapter, chapter 22,
13 24 chapter 459, ~~or~~ chapter 459A, ~~or~~ chapter 459B, necessary to
13 25 carry out its powers and duties. The commission may issue
13 26 subpoenas requiring the attendance of witnesses and the
13 27 production of evidence pertinent to the hearings. A subpoena
13 28 shall be issued and enforced in the same manner as provided in
13 29 civil actions.

13 30 Sec. 19. Section 455B.105, subsection 11, paragraph a,
13 31 unnumbered paragraph 1, Code 2009, is amended to read as
13 32 follows:

13 33 Adopt, by rule, procedures and forms necessary to implement
13 34 the provisions of this chapter, ~~chapter and chapters 459, and~~
13 35 ~~chapter 459A, and 459B~~ relating to permits, conditional
14 1 permits, and general permits. The commission may also adopt,

14 2 by rule, a schedule of fees for permit and conditional permit
14 3 applications and a schedule of fees which may be periodically
14 4 assessed for administration of permits and conditional
14 5 permits. In determining the fee schedules, the commission
14 6 shall consider:

14 7 Sec. 20. Section 455B.109, subsection 5, paragraph b, Code
14 8 2009, is amended by adding the following new subparagraph:

14 9 NEW SUBPARAGRAPH. (4) Civil penalties assessed by the
14 10 department and interest on the civil penalties, arising out of
14 11 violations involving dry bedded confinement feeding operations
14 12 under chapter 459B, shall be deposited in the animal
14 13 agriculture compliance fund as created in section 459.401.

14 14 Sec. 21. Section 455B.111, subsection 1, paragraphs a and
14 15 b, Code 2009, are amended to read as follows:

14 16 a. A person, including the state of Iowa, for violating
14 17 any provision of this chapter; chapter 459, subchapters I, II,
14 18 III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted
14 19 pursuant to this chapter; chapter 459, subchapters I, II, III,
14 20 IV, and VI; ~~or chapter 459A; or chapter 459B.~~

14 21 b. The director, the commission, or any official or
14 22 employee of the department where there is an alleged failure
14 23 to perform any act or duty under this chapter; chapter 459,
14 24 subchapters I, II, III, IV, and VI; chapter 459A; chapter
14 25 459B; or a rule adopted pursuant to this chapter; chapter 459,
14 26 subchapters I, II, III, IV, and VI; ~~or chapter 459A; or~~
14 27 chapter 459B, which is not a discretionary act or duty.

14 28 Sec. 22. Section 455B.111, subsection 5, Code 2009, is
14 29 amended to read as follows:

14 30 5. This section does not restrict any right under
14 31 statutory or common law of a person or class of person to seek
14 32 enforcement of provisions of this chapter; chapter 459,
14 33 subchapters I, II, III, IV, and VI; chapter 459A; chapter
14 34 459B; or a rule adopted pursuant to this chapter; chapter 459,
14 35 subchapters I, II, III, IV, and VI; ~~or chapter 459A; or~~
15 1 chapter 459B; or seek other relief permitted under the law.

15 2 Sec. 23. Section 455B.112, Code 2009, is amended to read
15 3 as follows:

15 4 455B.112 ACTIONS BY ATTORNEY GENERAL.

15 5 In addition to the duty to commence legal proceedings at
15 6 the request of the director or commission under this chapter;
15 7 chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter~~
15 8 459A; or chapter 459B, the attorney general may institute
15 9 civil or criminal proceedings, including an action for
15 10 injunction, to enforce the provisions of this chapter; chapter
15 11 459, subchapters I, II, III, IV, and VI; ~~or chapter 459A; or~~
15 12 chapter 459B, including orders or permits issued or rules
15 13 adopted under this chapter; chapter 459, subchapters I, II,
15 14 III, IV, and VI; ~~or chapter 459A; or chapter 459B.~~

15 15 Sec. 24. Section 455B.174, subsection 1, Code 2009, is
15 16 amended to read as follows:

15 17 1. Conduct investigations of alleged water pollution or of
15 18 alleged violations of this part of this division, ~~or chapter~~
15 19 459, subchapter III, chapter 459A, chapter 459B, or any rule
15 20 adopted or any permit issued pursuant thereto upon written
15 21 request of any state agency, political subdivision, local
15 22 board of health, twenty-five residents of the state, as
15 23 directed by the department, or as may be necessary to
15 24 accomplish the purposes of this part of this division, ~~or~~
15 25 chapter 459, subchapter III, chapter 459A, or chapter 459B.

15 26 Sec. 25. Section 455B.175, unnumbered paragraph 1, Code
15 27 2009, is amended to read as follows:

15 28 If there is substantial evidence that any person has
15 29 violated or is violating any provision of this part of this
15 30 division, chapter 459, subchapter III, ~~or chapter 459A, or~~
15 31 chapter 459B, or of any rule or standard established or permit
15 32 issued pursuant thereto; then:

15 33 Sec. 26. Section 455B.182, Code 2009, is amended to read
15 34 as follows:

15 35 455B.182 FAILURE CONSTITUTES CONTEMPT.

16 1 Failure to obey any order issued by the department with
16 2 reference to a violation of this part of this division;
16 3 chapter 459, subchapter III; ~~or chapter 459A; chapter 459B~~; or
16 4 any rule promulgated or permit issued pursuant thereto shall
16 5 constitute prima facie evidence of contempt. In such event
16 6 the department may certify to the district court of the county
16 7 in which such alleged disobedience occurred the fact of such
16 8 failure. The district court after notice, as prescribed by
16 9 the court, to the parties in interest shall then proceed to
16 10 hear the matter and if it finds that the order was lawful and
16 11 reasonable it shall order the party to comply with the order.
16 12 If the person fails to comply with the court order, that

16 13 person shall be guilty of contempt and shall be fined not to
16 14 exceed five hundred dollars for each day that the person fails
16 15 to comply with the court order. The penalties provided in
16 16 this section shall be considered as additional to any penalty
16 17 which may be imposed under the law relative to nuisances or
16 18 any other statute relating to the pollution of any waters of
16 19 the state or related to public water supply systems and a
16 20 conviction under this section shall not be a bar to
16 21 prosecution under any other penal statute.

16 22 Sec. 27. Section 455B.185, Code 2009, is amended to read
16 23 as follows:

16 24 455B.185 DATA FROM DEPARTMENTS.

16 25 The commission and the director may request and receive
16 26 from any department, division, board, bureau, commission,
16 27 public body, or agency of the state, or of any political
16 28 subdivision thereof, or from any organization, incorporated or
16 29 unincorporated, which has for its object the control or use of
16 30 any of the water resources of the state, such assistance and
16 31 data as will enable the commission or the director to properly
16 32 carry out their activities and effectuate the purposes of this
16 33 part 1 of division III; chapter 459, subchapter III; ~~or~~
16 34 chapter 459A; or chapter 459B. The department shall reimburse
16 35 such agencies for special expense resulting from expenditures
17 1 not normally a part of the operating expenses of any such
17 2 agency.

17 3 Sec. 28. Section 459.401, subsection 2, paragraph a,
17 4 subparagraph (5), Code 2009, is amended to read as follows:

17 5 (5) The collection of civil penalties assessed by the
17 6 department and interest on civil penalties, arising out of
17 7 violations involving animal feeding operations as provided in
17 8 sections 459.602, 459.603, ~~and 459A.502, and 459B.402~~.

17 9 EXPLANATION

17 10 DIVISION I. APPLICATION OF MANURE ON FROZEN AND SNOW
17 11 COVERED GROUND. This bill amends Code chapter 459, the
17 12 "Animal Agriculture Compliance Act" (Code section 459.101),
17 13 regulated by the department of natural resources. The bill
17 14 provides that a person may apply manure originating from an
17 15 animal feeding operation on frozen or snow covered ground.

17 16 APPLICATION OF LIQUID MANURE == PROHIBITION AND EXCEPTIONS.

17 17 The bill prohibits a person from applying liquid manure during
17 18 February 1 and ending on April 1 on frozen ground or snow
17 19 covered ground, unless emergency circumstances exist that are
17 20 due to unforeseen circumstances beyond the owner's control.
17 21 In order for an owner of a confinement feeding operation to
17 22 apply liquid manure during an emergency, a number of
17 23 conditions have to be satisfied, including contacting the
17 24 department, identifying the land where the manure is to be
17 25 applied in the owner's manure management plan (Code section
17 26 459.312), and applying the liquid manner in a manner that does
17 27 not contaminate water sources. A person cannot use the
17 28 exception if the manure originates from a storage structure
17 29 that is improperly designed or managed or that has a small
17 30 storage capacity and is constructed on or after the effective
17 31 date of the bill. Regardless of whether there is an
17 32 emergency, a person may apply liquid manure originating from a
17 33 small animal feeding operation or if the liquid manure is
17 34 incorporated within or injected into the soil on the same
17 35 date.

18 1 PENALTIES. Generally, a person who applies manure in
18 2 violation of the new provision is subject to a civil penalty
18 3 that may be administratively assessed by the department of not
18 4 more than \$10,000 (Code section 455B.109) or judicially
18 5 assessed of not more than \$5,000 per each day of the violation
18 6 (Code section 455B.191(1)). Penalties are deposited into the
18 7 animal agriculture compliance fund (Code section 459.401).

18 8 DIVISION II. DRY BEDDED CONFINEMENT FEEDING OPERATIONS.

18 9 The bill creates a new Code chapter referred to as the "Animal
18 10 Agriculture Compliance Act for Dry Bedded Confinement Feeding
18 11 Operations" (new Code section 459B.101). The bill's
18 12 provisions correspond closely to the "Animal Agriculture
18 13 Compliance Act" (Code chapter 459). The bill regulates dry
18 14 bedded confinement feeding operations for animals (cattle and
18 15 swine). The operation includes a building housing the animals
18 16 utilizing bedding (crop, vegetation, or forage residue or
18 17 similar materials) and any structure used to keep the dry
18 18 bedded manure (new Code section 459B.102).

18 19 ADJACENCY. The bill provides that two or more dry bedded
18 20 confinement feeding operations under common ownership or
18 21 common management are deemed to be a single dry bedded
18 22 confinement feeding operation if they are separated by less
18 23 than 1,250 feet or utilize a common area or system for dry

18 24 bedded manure disposal (new Code section 459B.103 compared to
18 25 Code section 459.201).

18 26 ADMINISTRATION. The bill authorizes the environmental
18 27 protection commission to adopt rules necessary to regulate the
18 28 construction or operation of dry bedded confinement feeding
18 29 operations, and provides that the provisions of the new Code
18 30 chapter are to supplement the applicable provisions of Code
18 31 chapter 459 (new Code section 459B.104 compared to Code
18 32 section 459.103).

18 33 CONSTRUCTION. The bill regulates the construction of dry
18 34 bedded confinement feeding operation structures, and requires
18 35 special flooring to prevent groundwater contamination (new
19 1 Code section 459B.201). Separation distances are required
19 2 between a dry bedded confinement feeding operation structure
19 3 and various objects or locations, including the surface intake
19 4 of an agricultural drainage well, wellhead, cistern of an
19 5 agricultural drainage well, or known sinkhole, a water source
19 6 and major water source, and designated wetland. It prohibits
19 7 construction within a 100 year floodplain (new Code section
19 8 459B.202 compared to Code section 459.310).

19 9 DRY BEDDED MANURE CONTROL. The bill provides for the
19 10 stockpiling of dry bedded manure, and includes separation
19 11 distances based on air and water quality.

19 12 AIR QUALITY. For air quality, separation distances are
19 13 established for a stockpile and a residence not owned by the
19 14 titleholder of the land, a commercial enterprise, a bona fide
19 15 religious institution, an educational institution, or a public
19 16 use area (new Code section 459B.301 compared to Code section
19 17 459.204). Several exceptions apply, including when a
19 18 titleholder executes a waiver, and the manure originates from
19 19 a small animal feeding operation (compared with Code section
19 20 459.205).

19 21 WATER QUALITY. For water quality, other separation
19 22 distance requirements apply, including for a "designated area"
19 23 (i.e., a known sinkhole, a cistern, an abandoned well, an
19 24 unplugged agricultural drainage well, an agricultural drainage
19 25 well surface inlet, a drinking water well, a wetland, or a
19 26 water source, but not a terrace tile inlet or surface tile
19 27 inlet other than an agricultural drainage well surface tile
19 28 inlet), a high-quality water resource, a terrace tile inlet,
19 29 or a surface tile inlet (new Code section 459B.302). The bill
19 30 restricts stockpiling on a grassed waterway, on certain
19 31 slopes, and on karst terrain or in an alluvial aquifer area.

19 32 MANURE MANAGEMENT PLAN. The bill provides that a person
19 33 required to file a manure management plan for dry bedded
19 34 manure confinement feeding operation may submit a copy of a
19 35 written agreement executed between the person and the person
20 1 renting the land for crop production (new Code section
20 2 459B.303 compared with Code section 459.312).

20 3 ENFORCEMENT. The department and the attorney general are
20 4 responsible for enforcing the provisions of the new Code
20 5 chapter (new Code section 459B.401 as compared with Code
20 6 section 459.601).

20 7 PENALTIES. A person who stockpiles dry bedded manure in
20 8 violation of air quality restrictions under new Code section
20 9 459B.301 is subject to a civil penalty for air quality
20 10 violations as provided in Code section 455B.109, which
20 11 authorizes the environmental protection commission to
20 12 establish civil penalty amounts according to a schedule not to
20 13 exceed \$10,000 (new Code section 459B.402 compared with Code
20 14 section 459.602). A person who violates any other provision
20 15 of the new Code chapter is subject to penalties for water
20 16 quality violations as provided in Code section 455B.109 or
20 17 455B.191 which includes a judicially assessed civil penalty of
20 18 up to \$5,000 per each day of the violation (new Code section
20 19 459B.402 compared with Code section 459.603). Moneys
20 20 collected from civil penalties are deposited into the animal
20 21 agriculture compliance fund (Code section 459.401).

20 22 DIVISION III. CONFORMING CHANGES. The bill amends
20 23 provisions in a number of Code sections which refer to Code
20 24 chapter 459. The provisions were added after provisions in
20 25 Code chapter 455B and other Code chapters relating to animal
20 26 feeding operations were transferred and consolidated pursuant
20 27 to 2002 Acts, chapter 1137, and 2002 Acts, 2nd Ex, chapter
20 28 1003. Other provisions make changes which refer to the
20 29 deposit of civil penalties into the animal agriculture
20 30 compliance fund (Code section 459.401).

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